

7-13-04  
I HEREBY ATTEST AND CERTIFY ON 7-13-04  
THAT THE FOREGOING DOCUMENT IS A FULL, TRUE  
AND CORRECT COPY OF THE ORIGINAL ON FILE  
IN MY OFFICE AND IN MY LEGAL CUSTODY.

CLERK, U.S. DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
*Pat Rivers*

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

FILED  
U.S. DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
JUL 13 2004  
P 12:35

JOSEPH BOOK,  
Plaintiff

v.

DEPARTMENT OF STATE POLICE,  
COMMONWEALTH OF MASSACHUSETTS,  
STATE TROOPER KURT M. FERRAZANI  
(No. 2355), STATE TROOPER SMITH (No. 2586)  
STATE TROOPER MACKENZIE (No. 1138), and  
STATE TROOPER HENNIGAN (ID unknown).  
Defendants

U.S. DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
Civil Action No. 04-2490  
2004-2490

04-11557 RCL

# NOTICE OF REMOVAL

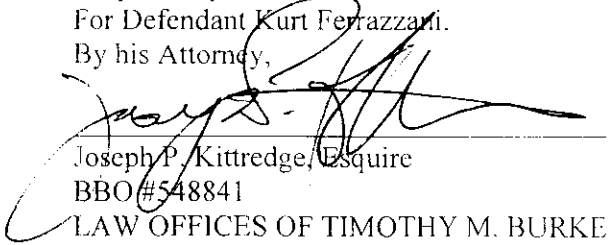
Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant State Trooper Kurt Ferrazzani, gives Notice of Removal to this Court of an action brought against him in the Massachusetts Superior Court of Suffolk County. In support thereof, Kurt Ferrazzani states the following:

1. The removing party is a Defendant in the above-entitled action.
2. On or about June 7, 2004, the Plaintiff commenced in this action in the Suffolk Superior Court of the Commonwealth of Massachusetts. A copy of the Complaint of Civil Action No. 04-2490 is attached as Exhibit A.
3. On or about June 30, 2004, Defendant Ferrazani was served with the Complaint. A copy of his summons is attached as Exhibit B.
4. A responsive pleading has not been filed in the state court.
5. This notice is filed in this Court within thirty (30) days after the Defendant's receipt of the Complaint served by Plaintiff Book.

6. The above-entitled action is a civil rights action for damages to the Plaintiff as a result of his arrest for operating under the influence of alcohol.
7. This Court has original jurisdiction in the above-entitled action pursuant to 28 U.S.C. § 1331, and the action may therefore be removed to this Court pursuant to 28 U.S.C. § 1441.
8. The Commonwealth is not subject to the jurisdiction of this Court for the claims asserted in the complaint by virtue of the Eleventh Amendment to the United States Constitution. See Pennhurst State School and Hospital v. Halderman, 465 U.S. 89, 121 (1984). For this reason, it is not necessary to obtain the consent of the Commonwealth in this Notice of Removal, nor has the Commonwealth given its consent to removal. Hill v. City of Boston, 706 F.Supp. 966, 968 (1989).
9. No other Defendants named in this action have filed an appearance in this action.
10. Notice of Removal will be given to all counsel of record promptly after filing this notice, and true and accurate copy of this notice will be filed with the clerk of the Superior Court for Suffolk County, Massachusetts.
11. Pursuant to Local Rule 81.1, certified or attested copies of all records, proceedings, and docket entries in the state court will be filed in this Court within 30 days.

WHEREFORE, Defendant gives notice of the removal of all claims against him from the Superior Court of Suffolk County, Massachusetts to this Court. Claims against the Commonwealth should remain in State Court.

Respectfully submitted,  
For Defendant Kurt Ferrazzani.  
By his Attorney,

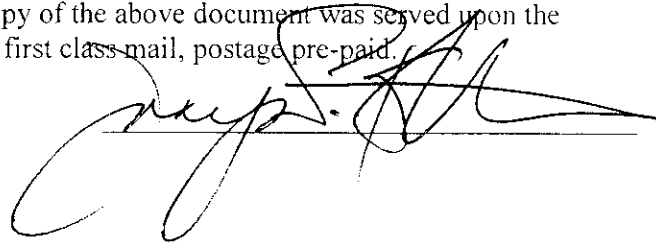
  
Joseph P. Kittredge, Esquire  
BBO #548841

LAW OFFICES OF TIMOTHY M. BURKE  
160 Gould Street, Suite 111  
Needham, MA 02494  
(781) 455-0707

Certificate of Service

I hereby certify that a true copy of the above document was served upon the attorney of record for each party via first class mail, postage pre-paid.

Date: 7-11-04



HEREBY ATTEST AND CERTIFY ON

JULY 21, 2004, THAT THE

FOREGOING DOCUMENT IS A FULL,  
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ORIGINAL ON FILE IN MY OFFICE,  
AND IN MY LEGAL CUSTODY.

MICHAEL JOSEPH DONOHUE  
CLERK/MAGISTRATE  
SUFFOLK SUPERIOR CIVIL COURT  
DEPARTMENT OF THE TRIAL COURT

BY 

ASSISTANT CLERK.

Commonwealth of Massachusetts  
SUFFOLK SUPERIOR COURT

Case Summary  
Civil Docket

07/20/2004  
10:41 AM

**SUCV2004-02490**  
**Book v Department of State Police of Comm of Mass et al**

|                    |            |                  |  |
|--------------------|------------|------------------|--|
| <b>File Date</b>   | 06/07/2004 | <b>Status</b>    | Disposed: transfered to other court (dtrans) |
| <b>Status Date</b> | 07/20/2004 | <b>Session</b>   | B - Civil B                                  |
| <b>Origin</b>      | 1          | <b>Case Type</b> | E99 - Miscellaneous                          |
| <b>Lead Case</b>   |            | <b>Track</b>     | X  |

|                  |            |                    |            |                   |          |
|------------------|------------|--------------------|------------|-------------------|----------|
| <b>Service</b>   | 09/05/2004 | <b>Answer</b>      | 11/04/2004 | <b>Rule</b>       | 12/19/20 |
| <b>Rule 15</b>   |            | <b>Discovery</b>   |            | <b>Rule 56</b>    |          |
| <b>Final PTC</b> | 12/04/2004 | <b>Disposition</b> | 01/03/2005 | <b>Jury Trial</b> | Yes      |

**PARTIES**

**Plaintiff**

Joseph Book  
15 Court Sq  
Boston, MA 02108  
Phone: 617-367-2220  
Active 06/07/2004 Notify

**Defendant**

Department of State Police of Comm of Mass  
Service pending 06/07/2004

**Defendant**

Trooper Kurt M. Ferrazani, ID No 2355  
Service pending 06/07/2004

**Defendant**

Trooper MacKenzie, ID No 1138  
Service pending 06/07/2004

**Atty General's Office 638672**

Ranjana Chand Burke  
Mass Atty General's Office  
1 Ashbuton Place, Rm. 1813  
Government Bureau/Trial Division  
Boston, MA 02108  
Phone: 617-727-2200  
Fax: 617-727-3076  
Active 07/02/2004 Notify

**Atty General's Office 548841**

Joseph P Kittredge  
Burke Law Offices (Timothy M)  
160 Gould Street  
Suite 111  
Needham Heights, MA 02494  
Phone: 781-455-0707  
Fax: 781-455-8879  
Active 07/20/2004 Notify

Commonwealth of Massachusetts  
SUFFOLK SUPERIOR COURT

Case Summary  
Civil Docket

07/20/2004  
10:41 AM

SUCV2004-02490

Book v Department of State Police of Comm of Mass et al

**Defendant**

Trooper Smith, ID No 2586  
Service pending 06/07/2004

**Defendant**

Trooper Hennigan  
Service pending 06/07/2004

**ENTRIES**

| Date       | Paper | Text   |
|------------|-------|--|
| 06/07/2004 | 1.0   | Complaint & jury demand on complaint   |
| 06/07/2004 |       | Origin 1, Type E99, Track X.   |
| 06/07/2004 | 2.0   | Civil action cover sheet filed   |
| 07/19/2004 |       | Certified copy of petition for removal to U. S. Dist. Court of Deft.<br>Kurt Ferrazani U. S. Dist. #(04CV-11557RCL). |
| 07/20/2004 |       | Case REMOVED this date to US District Court of Massachusetts   |

**EVENTS**

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DEPARTMENT OF THE TRIAL COURT

BY 

ASSISTANT CLERK.